The above noted panel only recently received this appeal for decision. The opinion in support of the decision being entered today was <u>not</u> written for publication and is <u>not</u> binding precedent of the Board.
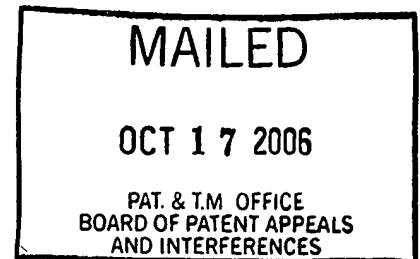
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SAI V. ALLAVARPU, XUESI DONG
and LINDA C. LEE

Appeal No. 2006-1755
Application No. 09/557,068

ON BRIEF[1]

Before THOMAS, KRASS, and HOMERE, <u>Administrative Patent Judges</u>.

THOMAS, <u>Administrative Patent Judge</u>.

DECISION ON APPEAL

Appellants have appealed to the Board from the examiner's final rejection of claims 1 through 45.

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[1] The above noted panel only recently received this appeal for decision.

Representative independent claim 1 is reproduced below:

1. A network management system comprising:

a gateway which is coupled to one or more managed objects and which is configured to deliver messages between the managed objects and one or more managers; and

a platform-independent interface to the gateway, wherein the gateway is configurable to communicate with the managers through the platform-independent interface to deliver the messages;

wherein the gateway is configurable to deliver the messages for each manager in a format selected by that manager.

The following references are relied on by the examiner:

Carre	6,282,579	Aug. 28, 2001
		(Filed Aug. 20, 1997)
Shank et al. (Shank)	6,445,776	Sep. 3, 2002
		(Filed Dec. 31, 1998)

Claims 1 through 3, 5, 6, 16 through 18, 20, 21, 31 through 33, 35 and 36

stand rejected under 35 U.S.C. § 102(e) as being anticipated by Carre. Next, claims

1, 2, 4 through 11, 13 through 17, 19 through 26, 28 through 32, 34 through 41 and

43 through 45 stand rejected under 35 U.S.C. § 102(e) as being anticipated by

Shank. Lastly, Shank has been utilized by the examiner within 35 U.S.C. § 103 as

the basis of unpatentability of dependent claims 3, 12, 18, 27, 33 and 42.

Rather than repeat the positions of the appellants and the examiner, reference

is made to the brief and reply brief for appellants' positions, and to the answer for

the examiner's positions.

<div align="center">OPINION</div>

For the reasons set forth by the examiner in the answer, as expanded upon

here, we sustain each of the rejections of the claims on appeal.

Independent system claim 1 has a corresponding method independent claim

16 which has features as well correspondingly recited in carrier medium

independent claim 31. To simplify our consideration of the issues, even though

appellants have separately argued independent claims 1, 16 and 31, corresponding

arguments are presented as to each of these claims. Similarly, because dependent

claims 2, 17 and 32 have the same features, the same arguments are presented. We

will therefore treat only the arguments with respect to independent claim 1 as

representative of those of independent claims 16 and 31 and do the same for claim 2

as representative of the subject matter of dependent claims 17 and 32. The same

may be said of corresponding features recited in dependent claims 10, 25 and 40; claims 11, 26 and 41 and dependent claims 13, 28 and 43. Lastly, in the context of the rejection of certain claims under 35 U.S.C. § 103, the features of dependent claims 3, 18 and 33 correspond and the features of dependent claims 12, 27 and 42 correspond.

At the outset, it is noted that the claimed gateway appears to correspond to the CORBA Gateway 208 in representative system figure 2 as disclosed. The platform-independent interface capability is provided by the IDL (interface definition language) interfaces. The claimed manager corresponds to the TMN manager software of the client computers of figure 1a also shown in a corresponding manner as TMN manager applications 206 in figure 2. The recited managed objects appear to correspond to the PMI or portable management interface applications 210 in figure 2. Structurally, these appear to correspond to the managed objects depicted as TMN agent hardware 150 in various forms in the left portion of disclosed figure 1a.

With this in mind, the paragraph bridging specification pages 13 and 14 sets

forth a first instance relating to the claimed feature of independent claims 1, 16 and

31 of a manager being able to receive messages as delivered to it "in a format

selected by that manager." This is also discussed at specification page 22, lines 3

through 9 and specification page 36, line 20 through page 37, line 27. To the extent

broadly recited in the independent claims 1, 16 and 31 on appeal, the feature

appears to be already recognized to be taught in the admitted prior art, particularly

the discussion at specification page 5, line 20 through page 7, line 27. The

platform-independent interface capability in the form of IDL is known in the art for

its function of being able to provide platform-independent interfaces as its name

clearly indicates. In accordance with the discussion at the top of page 6 and the

middle of this page, in addition to the discussion in the lower half of page 7, the

ability of a manager to specify its own formats appears to be well known in the art.

As to the first stated rejection under 35 U.S.C. § 102 relying upon Carre, we

agree with the examiner's views expressed in the answer and expand upon them

here. Initially, from an artisan's perspective, knowing what prior art exists as

discussed in Carre as well as appellants' own admitted prior art just noted, it

appears to us that the artisan knew that gateways were known to be

"configurable" to be able to communicate through platform-independent interfaces to provide message communications between source and destination objects such as manager and managed objects. Moreover, there is only a passive selectability, and there is no positive recitation of any selection by any manager from among a plurality of different formats available.

We understand from appellants' arguments in the brief beginning at page 5 as to this rejection that the apparent focus in Carre is upon address conversions. This concept corresponds to the disclosed but unclaimed translation. The *Summary of the Invention* at columns 1 and 2 of Carre expands upon the Abstract's teachings. The Summary emphasizes the ability to communicate both the originating and translated address values.

If the artisan considers the teachings of Carre from the point of view of a managed object with respect to communicating to a manager, the format that the given manager operates in would have automatically been selected according to the translations of Carre and in the manner claimed for any messages including

address information that would be communicated from a managed object to the

manager. Correspondingly, any communication from a manager to a managed

object would originate in a format implicitly selected by or required by the manager

where Carre would translate this to the addressing capability of the managed object.

The address translation or conversion in Carre is perhaps best appreciated by

the discussion at column 5, line 65 through column 6, line 40. The discussion in the

initial lines at column 6 indicates that an object name as well as an address

associated with an object name or a part of the addressability is communicated and

translated. Thus, it is apparent that not only is the ASN or abstract syntax notation

utilized as in dependent claim 2, but the use of text is also taught as in dependent

claim 2. The teaching at column 6, lines 36 through 40, also appears to indicate that

a full translation capability beyond address types is contemplated by Carre.

The noted discussion at column 6 also includes a brief discussion of figures

4a, 4b and 5. These coding figures appear to indicate name translations and the

chooseability or switchability between object types.

Because of these remarks, we do not agree with appellants' positions in the brief as to independent claim 1 as representative of independent claims 1, 16 and 31, as noted earlier, as well as the corresponding features of dependent claim 2 and corresponding features recited in dependent claims 17 and 32. Moreover, the extensive remarks in the reply brief merely appear to repeat emphatically the positions already taken in the brief. We do not read the claimed selectability as restrictively as appellants appear to invite us to do in light of the state of the admitted prior art as well as the disclosed features in Carre.

Turning next to the rejection under 35 U.S.C. § 102 of the various claims as being anticipated by Shank, we consider, as noted earlier in this opinion, claims 1, 2, 10, 11 and 13 as representative of the subject matter of the other corresponding claims. For the reasons set forth by the examiner as amplifed here, we sustain the rejection of the claims based on Shank.

Contrary to the general assertions made in the brief and reply brief, Shank is concerned with managers and managed objects. Even figure 1 of Shank appears to correspond to the showing in appellants' disclosed figure 1a. The application 140

of Shank appears to correspond to the client/manager software in appellants' figure

1a. Correspondingly, the server 110 also appears to correspond to the agent

software in appellants' figure 1a and the various hardware elements comprise

appellants' claimed managed objects 150 in figure 1a which have correspondence to

the various managed objects within both the media service 120 and the telephony

service 130 in Shank. It appears to us that the artisan would have well appreciated

from the teachings of Shank that the server 110 corresponds to the claimed

gateway. Figure 2 of Shank shows corresponding CORBA distributed software bus

260 analogous to the described CORBA bus 202 in appellants' figure 2. The last

part of the abstract of Shank even relates to the interfaceability using interface

definition language interfaces (IDL) along with application program interfaces or

APIs implemented using CORBA. Shank's title relates to an abstract interface and

the teaching in Shank related to media and telephony services is generalized at

column 2, lines 45 through 50 in the same manner they would correspond to the

appellants' claimed invention compared to the disclosed environment in their own

disclosed figure 1a.

Shank's clients/applications communicate using hardware-independent and operating system-independent APIs in an object-oriented programming environment such that the client becomes a manager and establishes various sessions or communicates via various messages with Shank's server as a gateway with respect to various media service and telephony service objects and hardware. This manager/application 140 is repeatedly said to "invoke" various commands with respect to the operability of these latter devices through the server 110 such as to clearly indicate to the artisan that the server is clearly "configurable" to permit communications between the manager/application 140 through platform-independent interfaces ultimately to the managed objects/devices using a message format approach. Clearly, the application communicates in a format determined or otherwise selected by the manager in a manner claimed especially since the selectability that is required of representative independent claim 1 on appeal is not said to selectively choose from among a plurality of options.

Generally, as basically asserted by the examiner, the entire system architecture topic beginning at the middle of column 3 of Shank is compelling. Of particular note is the paragraph at the middle of column 4 as relied on by the examiner and the discussion in the paragraph bridging columns 4 and 5 allowing resources to be accessed by name such as the broadly defined text format of dependent claim 2. The formatability in terms of messages to be sent to particular types of media and telephony devices also suggests the selectability by the application to choose which one and its necessary format through the server 110. Of particular note among them is the teachings and showings relating to facsimile services, and speech recognition which requires speech to text conversions, specific features of which relate to the claimed text capability in dependent claim 2. Additionally, the discussion beginning at column 6, line 48 through the top of column 7 in Shank clearly relates to the configurability of the server by the selective use of APIs and the usability of API extensions to do so.

These considerations are also taught persuasively in the discussion at columns 7 and 8 of Shank relating to the application-server interface topic there. The table at the bottom of column 8 makes clear that communication is through various messages also suggesting text as recited in dependent claim 2. The

discussion at the middle of column 17, as noted by the examiner, is compelling of

the selectability by the application 140 controlling the media services interface 220

and the media server 200 in a language independent and platform-independent

manner. The teachings in Shank make clear that the communication can be in the

form of a query or a command as in dependent claims 10 and 11. There are

repeated teachings regarding interface definition language (IDL) and the ability to

use platform-specific formats upon which any media or telephony device operates

(claim 13).

In light of Shank's compelling teachings, we are unpersuased by any of

appellants' arguments in the principal brief which appear to be basically repeated in

the reply brief.

Turning lastly to the rejection of various claims under 35 U.S.C. § 103 as

being unpatentable over Shank, again, we note that the features of claim 3 are also

recited in dependent claims 18 and 33 and the features in claim 12 are recited in

dependent claims 27 and 42.

We sustain this rejection even through we recognize, at first blush, the

apparent weaknesses in the examiner's positions with respect to the noted claims as

first expressed at page 8 of the answer. Because Shank makes continued references

to identifiable and generic types of prior art interfaces, the examiner's basic thrust

here as well as the additional remarks at page 11 of the answer are persuasive of

unpatentability of the specific recitation of the ASN1 feature in claims 3, 18 and 33.

The examiner's position that this is a well known industry standard is well-taken,

particularly since appellants' buttress this by their own admission of the prior art in

the initial pages of the specification as filed. The same may be said of the portable

management interface (PMI) capability in dependent claim 12. Appellants'

admitted prior art already recognizes that this is a proprietary interface which,

together with a generic teaching of off-the-shelf interfaces for particularly different

types of media telephony devices, would have been an obvious variation/choice to

the artisan.

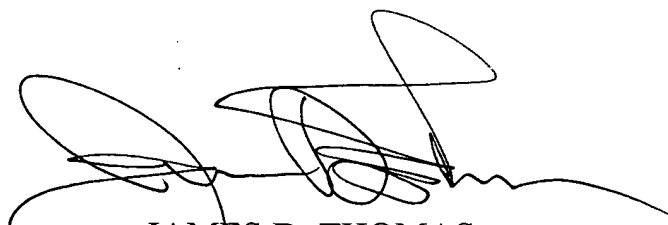Lastly, we note in passing the nature and scope of the "carrier medium" preambular limitation of independent claim 31 and its respective dependent claims. The nature of the mediums of the disclosed invention is first addressed with respect to figure 1b at specification page 17, line 3 through page 19, line 17 which were expanded upon at specification page 46, lines 8 through 13. At this latter location, appellants expand the intended meaning of medium to include transmission media or signals. It appears to us that, to the extent claim 31 and its dependent claims may be considered to read upon transmission media or signals, they appear to be subject to rejections under 35 U.S.C. § 101 since there appears to be no statutory basis or category of invention relating to such transmission media or signals per se. We are unaware of any authority which authorizes or permits transitory transmission media or signals to be within a statutory category of invention.

In view of the foregoing, the decision of the examiner rejecting various

claims on appeal under §§ 35 U.S.C. 102 and 103 is affirmed.

No time period for taking any subsequent action in connection with this

appeal may be extended under 37 CFR §1.136(a). See 37 CFR § 1.136(a)(1)(iv).

<u>AFFIRMED</u>

JAMES D. THOMAS)
Administrative Patent Judge)
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ERROL A. KRASS) APPEALS
Administrative Patent Judge) AND
) INTERFERENCES
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